

ARGUMENTS/REMARKS

This paper is submitted responsive to the official action mailed June 26, 2003. Reconsideration of the application in light of the accompanying remarks and amendments is respectfully requested.

In the aforesaid action, the Examiner rejected all claims in the application on the basis of US Patent Number 6,434,403 to Ausems et al. (Ausems et al). Specifically, claims 1-8 and 11-17 were rejected as anticipated by Ausems et al, and claims 9-10 and 18 were rejected as obvious over Ausems et al in light of official notice.

By the present response, the reconsideration of the rejection is respectfully requested and, additionally, a new dependent claim has been added which is believed to further highlight novel and non-obvious features of the present invention as compared to the prior art of record.

The present invention is drawn to a method for wireless data exchange for control of structural appliances. As shown in Figure 1, a mobile device (16) is communicated with one or more structural appliances 10 through network 18 using server 14 and, preferably, gateway 12. Claim 1 is drawn to an embodiment of the invention wherein a server is used to communicate the mobile device with the structural appliance.

Turning to the art rejection, the Examiner points to Ausems et al., and references a portion of this patent wherein it is stated that a digital assistant such as that disclosed in Ausems et al can be used to control devices, and that each device to be controlled by PDA telephone is equipped with a wireless transceiver or receiver configured to receive functional commands from the PDA telephone. It is respectfully submitted that the Ausems et al reference falls short of the claimed subject matter. Specifically, the transceiver receiver of Ausems et al appears to be a dedicated device attached to or incorporated into each device to be controlled. This clearly differs from the server called out in claim 1. It is respectfully submitted that the transceiver receiver of Ausems et al is clearly not a server within the scope of claim 1 and, therefore, that Ausems et al fails to anticipate claim 1. Further, the teachings of Ausems et al are drawn primarily to the PDA

itself, and it is submitted that Ausems et al likewise does not suggest the method of claim 1.

Independent claims 15 and 16 also call for a server through which communication is carried out and these claims are therefore also submitted to be patentable based upon the foregoing arguments.

Dependent claims 2-14, 17 and 18 all depend directly or indirectly from one or more of the foregoing independent claims and are therefore also submitted to be patentable based upon the foregoing arguments. Further, these claims are submitted to contain patentable subject matter in their own right.

For example, turning to dependent claim 2, this claim sets forth an embodiment of the present invention wherein the server is communicated with the structural appliance through a gateway. The examiner referring to this claim states that it is known in the art that a gateway server is included as an interface between the PDA and the appliances. While Applicant traverses such a statement in the absence of prior art establishing same, even if true this does not meet the language of claim 2. Claim 2 calls for a different configuration of server relative to gateway than has been treated by the Examiner, Further, it is respectfully submitted that nothing in Ausems et al. or any other art of record discloses or suggests communicating a server with the structural appliance through a gateway. This claim is therefore also submitted to be patentable in its own right.

As to claim 3, the Examiner asserts that it is inherent in the teaching of Ausems et al that in order to transmit appliance information from server to mobile device, the appliance information has to be stored in the server. This holding is also traversed in that Ausems as a whole teaches use of a transceiver receiver for establishing communication between the PDA and appliance. With this teaching in hand, it is not clear how the conclusion is reached that it is inherent to store information at a server which is not even present. It is respectfully submitted that Ausems et al does not disclose or suggest the subject matter of claim 3.

As to claim 12, the Examiner says that this claim is anticipated since Ausems shows a display. It is respectfully pointed out that claim 12, along with all claims in the

application, is a method claim which calls not merely for a display, but of a display of options which can be selected from by the user in order to control the appliance. It is respectfully submitted that Ausems et al. clearly fails to teach or suggest this subject matter.

As to claim 18, the Examiner asserts that the subject matter of this claim would be an obvious design choice since the configuration of the claim would not solve any particular problem or be for any particular purpose. This statement is respectfully traversed on two grounds. First, the method claim calls for specific steps which in this case are clearly not suggested by the art of record. Nothing in the prior art supports the assertion that the subject matter of claim 18 would be an obvious design choice stemming from the Ausems et al disclosure. Further, the subject matter of claim 18 is for a particular purpose, to allow an energy provider such as a utility company or the like to obtain direct control over appliances of customers and the like which can help in crisis or emergency situations and the like.

Finally, new claim 19 has been added which is drawn to a further embodiment of the invention wherein a plurality of appliances are communicated with the server, and the user is presented at the mobile device with a selection screen for selecting from this plurality of appliances whereby different appliances can be controlled.

An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the Examiner is courteously invited to telephone the undersigned and the same would be gratefully appreciated.

It is submitted that the claims as amended herein patentably define over the art relied on by the Examiner and early allowance of same is courteously solicited.

If any additional fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

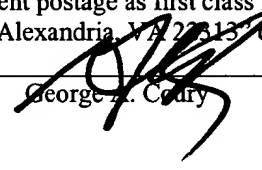
Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on October 27, 2003


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